

MDR Tracking Number: M5-04-3733-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 06/28/04. The Table of Disputed Services listed CPT code 99212 for date of service 03/22/04, the HCFA-1500 submitted by the requestor listed CPT code 99213 and therefore did not correspond with the submitted table; therefore, CPT code 99213 was not reviewed.

The IRO reviewed CPT Codes 99212, 97530, and 97110 that were denied based upon "U".

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

CPT codes 97110 (2 units) and 99212 for date of service 03/01/04 **were** found to be medically necessary. All remaining services **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for CPT Codes 99212, 97530 and 97110.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity were the only issue** to be resolved.

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees as follows:

- in accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c).

This Order is applicable to date of service 03/01/04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 2nd day of December, 2004

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf
Enclosure: IRO decision

October 13, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3733-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured on ___ while working for ___. The records indicate a 30 year old female who weighs 308 pounds. No height is indicated in the documentation provided. ___ was injured while working/walking on stairs. She initially treated at Mercy Health Center in Laredo on 8/12/03. She then treated with Michael Setliff, DC. An MRI was performed on 11/7/03. It indicated a L4/5 focal, subligamentous disc herniation with facet arthrosis at L4/5, mild bilateral

foraminal encroachment at L4/5 and L5/S1 desiccation with annular bulge with facet arthrosis. James Simmons, MD indicates that he agrees with the MRI report as reported by the radiologist. He recommends aggressive therapy and would not recommend surgery at this time. The SOAP note of 11/21/03 indicates the patient is to be referred out for PT. The letter from the requestor indicates that the initial PT facility stopped seeing patients; therefore, the patient was apparently referred to Kayce Frye, DC on or about 12/19/03. She presented for rehabilitation with Dr. Frye on 2/17/04. The patient was placed at MMI on 3/10/04 by the treating doctor with a 5% WP impairment.

Records were sent from the requestor and treating doctor. Records reviewed include but are not limited to the following: initial paperwork from TWCC, letter of medical necessity from Kayce Frye, DC, 8/12/03 radiographic report from Mercy Health Center, 11/7/03 lumbar MRI from Laredo Open MRI, personal rehab program notes times two pages and notes from James Simmons, MD.

A request for further documentation was made on 9/27/04 as no daily treatment notes had been initially provided. The carrier submitted documentation on 9/28/04 after multiple requests (greater than 10 days post the seven day rule). Further documentation was received from the requestor on 9/28/04. The requestor sent daily notes of Dr. Frye from 3/1/04 through 3/22/04. The respondent sent records including but not limited to: MMI/IR examination 3/10/04 by James Setliff, DC, Daily notes from Dr. Setliff from 8/15/03 through 12/02/03, daily notes by Dr. Frye from 2/17/04 through 3/22/04, an apparent treatment log from 8/15 through 12/2/03, several muscle stim supply order sheets and notes from Mercy health center.

A request for an updated table of disputed services was requested from the TWCC case manager on 9/29/04 via email. Further requests were made from TWCC until the disputed dates of service were made clear on 10/12/04. This was then forwarded to the reviewer.

DISPUTED SERVICES

Disputed services include the following: 99212, 97530 and 97110 from 3/1/04 through 3/22/04.

DECISION

The reviewer disagrees with the previous adverse determination for all services through 3/5/04. (Two units of 97110 and the 99212 office visits are approved during this time frame.)

The reviewer agrees with the previous adverse determination regarding all remaining services.

BASIS FOR THE DECISION

The reviewer notes the treating doctor placed the patient at MMI on 3/5/04. As per TWCC Rule, this indicates the patient is not expected to improve greater than three percent in impairment in the next year. Rehabilitative services at this point should have been returned to a home exercise

protocol. The records provided did not indicate specific exercises that the patient was performing on a daily basis. The 'personal program' consists of two pages of exercises consisting of seven exercises consistent with CPT code 97110. There is no indication of a program of 97530 (Therapeutic Activity) exercise protocols. The patient did not present for two months post referral. The reviewer notes the decisions are based upon the Presley Reed Guidelines, ACOEM Guidelines and the Council of Chiropractic Physiological Therapeutics and Rehabilitation Rehabilitation Guidelines. It is not evident that the patient improved functionally with the rehabilitation program as there was no Functional Capacity Evaluation performed prior to or after the care. Once the patient was placed at MMI, no further rehabilitative measures were medically necessary or appropriate as per TWCC rule and the previously stated guidelines.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director